



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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MEMORANDUM FOR DIRECTOR, FIELD OPERATIONS - EAST
DIRECTOR, FIELD OPERATIONS – WEST
DIRECTOR, TECHNICAL GUIDANCE

FROM: Diane S. Ryan /s/ Diane S. Ryan
Director, Technical Services

SUBJECT: Interim Guidance
Consents on TEFRA Partner Cases

The purpose of this memorandum is to provide interim guidance to Appeals employees when securing consents at the partner level for a taxpayer that was a partner in a Tax Equity and Fiscal Responsibility Act (TEFRA) partnership. This guidance will be used by Appeals Officers (AOs) and Appeals Team Case Leaders (ATCLs) and incorporated into [IRM 8.19.6](#), Appeals Flow Through Entity Handbook – Investor Cases, by December 2007.

Currently, IRM 8.19.6 provides that there are two consent forms that may be used to extend the statute at the partner level, depending on what items are being extended. These are [Form 872-F](#), Consent to Extend the Time to Assess Tax Attributable to Items of a Partnership or S Corporation That Have Converted Under Section 6231(b) of the Internal Revenue Code, and [Form 872-I](#), Consent to Extend the Time to Assess Tax As Well As Tax Attributable to Items of a Partnership. Form 872-F applies only to items that have been converted under IRC Section 6231(b). Form 872-I covers partnership items, affected items, and converted items.

There is a third consent form not mentioned in IRM 8.19.6. [Form 872-IA](#), Special Consent to Extend the Time to Assess Tax As Well As Tax Attributable to Items of a Partnership, is an open-ended version of Form 872-I.

In *Ginsburg*, 127 TC No. 5 (2006), the Tax Court held that a consent that did not reference affected items was not sufficient to extend the statute for affected items. As a result of *Ginsburg*, AOs and ATCLs should solicit either a Form 872-I or a Form 872-IA from the taxpayer when the taxpayer is a partner in a TEFRA partnership that is under examination in the event that there are affected items at issue.

If you have any questions concerning this guidance, please contact Gary Engolia or Steve Highfield, Technical Guidance Coordinators for TEFRA.

cc: www.irs.gov